

By Senator Palumbo

E2SHB 1923 - S COMM AMD

By Committee on Ways & Means

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 36.70A
4 RCW to read as follows:

5 (1)(a) Except as provided in (b) of this subsection or subsection
6 (2) of this section, a city planning pursuant to RCW 36.70A.040 with
7 a population greater than forty thousand shall take at least two of
8 the following actions by April 1, 2021, in order to increase its
9 residential building capacity:

10 (i) Authorize development in one or more areas of not fewer than
11 five hundred acres that include at least one train station served by
12 commuter rail or light rail with an average of at least fifty
13 residential units per acre that require no more than an average of
14 one on-site parking space per two bedrooms in the portions of
15 multifamily zones that are located within the areas;

16 (ii) Authorize development in one or more areas of not fewer than
17 five hundred acres in cities with a population greater than forty
18 thousand or not fewer than two hundred fifty acres in cities with a
19 population less than forty thousand that include at least one bus
20 stop served by scheduled bus service of at least four times per hour
21 for twelve or more hours per day with an average of at least twenty-
22 five residential units per acre that require no more than an average
23 of one on-site parking space per two bedrooms in portions of the
24 multifamily zones that are located within the areas;

25 (iii) Authorize at least one duplex, triplex, or courtyard
26 apartment on each parcel in one or more zoning districts that permit
27 single-family residences unless a city documents a specific
28 infrastructure of physical constraint that would make this
29 requirement unfeasible for a particular parcel;

30 (iv) Authorize cluster zoning or lot size averaging in all zoning
31 districts that permit single-family residences;

1 (v) Require no more than one on-site parking space per two
2 bedrooms in the portions of multifamily zones that are located within
3 one-half mile of a fixed guideway transit station;

4 (vi) Authorize attached accessory dwelling units on all parcels
5 containing single-family homes where the lot is at least three
6 thousand two hundred square feet in size, and permit both attached
7 and detached accessory dwelling units on all parcels containing
8 single-family homes, provided lots are at least four thousand three
9 hundred fifty-six square feet in size. Qualifying city ordinances or
10 regulations may not provide for on-site parking requirements, owner
11 occupancy requirements, or square footage limitations below one
12 thousand square feet for the accessory dwelling unit, and must not
13 prohibit the separate rental or sale of accessory dwelling units and
14 the primary residence. Cities must set applicable impact fees at no
15 more than the projected impact of the accessory dwelling unit. To
16 allow local flexibility, other than these factors, accessory dwelling
17 units may be subject to such regulations, conditions, procedures, and
18 limitations as determined by the local legislative authority, and
19 must follow all applicable state and federal laws and local
20 ordinances;

21 (vii) Adopt a planned action pursuant to RCW 43.21C.420;

22 (viii) Adopt a planned action pursuant to RCW
23 43.21C.440(1)(b)(ii), except that an environmental impact statement
24 pursuant to RCW 43.21C.030 is not required for such an action;

25 (ix) Adopt increases in categorical exemptions pursuant to RCW
26 43.21C.229 for residential or mixed-use development;

27 (x) Adopt a form-based code in one or more zoning districts that
28 permit residential uses. "Form-based code" means a land development
29 regulation that uses physical form, rather than separation of use, as
30 the organizing principle for the code;

31 (xi) Authorize a duplex on each corner lot within all zoning
32 districts that permit single-family residences;

33 (xii) Form or join existing subregional partnerships with
34 neighboring jurisdictions to implement and promote affordable housing
35 programs;

36 (xiii) Authorize at least a twenty percent density bonus for all
37 residential development projects, both single-family and multifamily,
38 when at least ten percent of the total units within the project are
39 provided as affordable housing. In zoning districts that allow
40 single-family detached housing, the authorization adopted pursuant to

1 this subsection must allow for the construction of duplexes or
2 triplexes to fulfill the affordable housing requirement. For all
3 residential development that qualifies for the twenty percent density
4 bonus of this subsection, the authorization adopted pursuant to this
5 subsection must, for the purpose of demonstrating how additional
6 housing units within a development site may be provided when
7 affordable housing is provided, authorize modifications to one or
8 more of the following zoning requirements: Building heights,
9 structural setbacks, open space, maximum lot and impervious
10 standards, parking, road widths, landscaping buffers, tree retention,
11 or other requirements;

12 (xiv) Allow for the division or redivision of land into the
13 maximum number of lots through the short subdivision process provided
14 in chapter 58.17 RCW;

15 (xv) Authorize a minimum net density of six dwelling units per
16 acre; and

17 (xvi) Authorize attached accessory dwelling units on all parcels
18 containing single-family homes where the lot is at least three
19 thousand two hundred square feet in size. Permit both attached
20 and detached accessory dwelling units on all parcels containing
21 single-family homes, provided lots are at least four thousand three
22 hundred fifty-six square feet in size. Qualifying city ordinances or
23 regulations may not provide for on-site parking requirements, owner
24 occupancy requirements or square footage limitations below one
25 thousand square feet for the accessory dwelling unit, and must not
26 prohibit the separate rental or sale of accessory dwelling units and
27 the primary residence. Cities must set applicable impact fees at no
28 more than the projected impact of the accessory dwelling unit. To
29 allow local flexibility, other than these factors, accessory dwelling
30 units may be subject to such regulations, conditions, procedures, and
31 limitations as determined by the local legislative authority, and
32 must follow all applicable state and federal laws and local
33 ordinances.

34 (b) If a city only chooses two actions in this subsection (1), it
35 may not select only (a)(i) and (ii) of this subsection unless the
36 actions occur in different geographic areas.

37 (2)(a) As an alternative to taking two of the actions provided in
38 subsection (1) of this section, a city that is subject to subsection
39 (1) of this section may, for purposes of compliance with subsections
40 (1) and (8) of this section, adopt a housing action plan as described

1 in this subsection. The goal of any such housing plan must be to
2 encourage construction of additional affordable and market rate
3 housing in a greater variety of housing types and at prices that are
4 accessible to a greater variety of incomes. A housing action plan may
5 utilize data compiled pursuant to section 3 of this act to meet the
6 requirements of subsection (1)(a)(i) and (iii) of this section. The
7 housing action plan must:

8 (i) Quantify existing and projected housing needs for all income
9 levels, including extremely low-income households, with documentation
10 of housing and household characteristics, and cost-burdened
11 households;

12 (ii) Develop strategies to increase the supply of housing, and
13 variety of housing types, needed to serve the housing needs
14 identified in (a)(i) of this subsection;

15 (iii) Analyze population and employment trends, with
16 documentation of projections;

17 (iv) Consider strategies to minimize displacement of low-income
18 residents resulting from redevelopment;

19 (v) Review and evaluate the current housing element adopted
20 pursuant to RCW 36.70A.070, including an evaluation of success in
21 attaining planned housing types and units, achievement of goals and
22 policies, and implementation of the schedule of programs and actions;

23 (vi) Provide for participation and input from community members,
24 community groups, local builders, local realtors, nonprofit housing
25 advocates, and local religious groups; and

26 (vii) Include a schedule of programs and actions to implement the
27 recommendations of the housing action plan.

28 (b) If a city chooses to develop a housing action plan under this
29 subsection (2) to comply with subsection (1) of this section, and has
30 not adopted the housing action plan by April 1, 2021, a city must
31 comply with subsection (1) of this section by October 1, 2021.

32 (3) A city may rely on actions that take effect on or after
33 January 1, 2012, for purposes of compliance with subsection (1) of
34 this section.

35 (4)(a) A city with a population between twenty thousand or forty
36 thousand shall take one or more of the actions specified in
37 subsection (1) of this section by April 1, 2021, in order to increase
38 its residential building capacity.

1 (b) A city with a population of twenty thousand or fewer may, but
2 is not required to, take one or more of the actions specified in
3 subsection (1) of this section.

4 (5) Amendments to development regulations and other nonproject
5 actions taken by a city specified under subsection (1) or (4) of this
6 section or a county planning under RCW 36.70A.040 to implement the
7 actions specified in subsection (1) of this section, with the
8 exception of the action specified in subsection (1)(a)(vii) of this
9 section, are not subject to administrative or judicial appeal under
10 chapter 43.21C RCW.

11 (6) A city that is subject to the requirements of subsection (1)
12 of this section shall certify to the department once it has complied
13 with the requirements of subsection (1) of this section.

14 (7) In meeting the requirements of subsection (1) of this
15 section, cities are encouraged to utilize strategies that increase
16 residential building capacity in areas with frequent transit service
17 and with the transportation and utility infrastructure that supports
18 the additional residential building capacity.

19 (8)(a) Except as provided in (b) of this subsection, a city that
20 has complied with subsection (1) of this section, based on actions
21 that take effect between the effective date of this section and April
22 1, 2021, is eligible to apply to the department for a one-time grant
23 of one hundred thousand dollars in order to support planning and
24 outreach efforts, subject to the availability of funds appropriated
25 for that purpose. If requested, funding may be provided to support
26 planning, policy development and outreach prior to adoption of local
27 ordinances or actions intended to comply with this act.

28 (b) A city that complies with subsection (1) of this section
29 solely by relying on actions taken prior to the effective date of
30 this section under subsection (3) of this section is not eligible for
31 grant funding under this subsection.

32 (9) In implementing this act, cities are encouraged to prioritize
33 the creation of affordable, inclusive neighborhoods and to consider
34 the risk of residential displacement, particularly in neighborhoods
35 with communities at high risk of displacement.

36 **Sec. 2.** RCW 36.70A.030 and 2017 3rd sp.s. c 18 s 2 are each
37 amended to read as follows:

38 Unless the context clearly requires otherwise, the definitions in
39 this section apply throughout this chapter.

1 (1) "Adopt a comprehensive land use plan" means to enact a new
2 comprehensive land use plan or to update an existing comprehensive
3 land use plan.

4 (2) "Agricultural land" means land primarily devoted to the
5 commercial production of horticultural, viticultural, floricultural,
6 dairy, apiary, vegetable, or animal products or of berries, grain,
7 hay, straw, turf, seed, Christmas trees not subject to the excise tax
8 imposed by RCW 84.33.100 through 84.33.140, finfish in upland
9 hatcheries, or livestock, and that has long-term commercial
10 significance for agricultural production.

11 (3) "City" means any city or town, including a code city.

12 (4) "Comprehensive land use plan," "comprehensive plan," or
13 "plan" means a generalized coordinated land use policy statement of
14 the governing body of a county or city that is adopted pursuant to
15 this chapter.

16 (5) "Critical areas" include the following areas and ecosystems:
17 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
18 used for potable water; (c) fish and wildlife habitat conservation
19 areas; (d) frequently flooded areas; and (e) geologically hazardous
20 areas. "Fish and wildlife habitat conservation areas" does not
21 include such artificial features or constructs as irrigation delivery
22 systems, irrigation infrastructure, irrigation canals, or drainage
23 ditches that lie within the boundaries of and are maintained by a
24 port district or an irrigation district or company.

25 (6) "Department" means the department of commerce.

26 (7) "Development regulations" or "regulation" means the controls
27 placed on development or land use activities by a county or city,
28 including, but not limited to, zoning ordinances, critical areas
29 ordinances, shoreline master programs, official controls, planned
30 unit development ordinances, subdivision ordinances, and binding site
31 plan ordinances together with any amendments thereto. A development
32 regulation does not include a decision to approve a project permit
33 application, as defined in RCW 36.70B.020, even though the decision
34 may be expressed in a resolution or ordinance of the legislative body
35 of the county or city.

36 (8) "Forestland" means land primarily devoted to growing trees
37 for long-term commercial timber production on land that can be
38 economically and practically managed for such production, including
39 Christmas trees subject to the excise tax imposed under RCW 84.33.100
40 through 84.33.140, and that has long-term commercial significance. In

determining whether forestland is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forestland to other uses.

(9) "Freight rail dependent uses" means buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of goods where the use is dependent on and makes use of an adjacent short line railroad. Such facilities are both urban and rural development for purposes of this chapter. "Freight rail dependent uses" does not include buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of coal, liquefied natural gas, or "crude oil" as defined in RCW 90.56.010.

(10) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(11) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(12) "Minerals" include gravel, sand, and valuable metallic substances.

(13) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(14) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(15) "Recreational land" means land so designated under RCW 36.70A.1701 and that, immediately prior to this designation, was

1 designated as agricultural land of long-term commercial significance
2 under RCW 36.70A.170. Recreational land must have playing fields and
3 supporting facilities existing before July 1, 2004, for sports played
4 on grass playing fields.

5 (16) "Rural character" refers to the patterns of land use and
6 development established by a county in the rural element of its
7 comprehensive plan:

8 (a) In which open space, the natural landscape, and vegetation
9 predominate over the built environment;

10 (b) That foster traditional rural lifestyles, rural-based
11 economies, and opportunities to both live and work in rural areas;

12 (c) That provide visual landscapes that are traditionally found
13 in rural areas and communities;

14 (d) That are compatible with the use of the land by wildlife and
15 for fish and wildlife habitat;

16 (e) That reduce the inappropriate conversion of undeveloped land
17 into sprawling, low-density development;

18 (f) That generally do not require the extension of urban
19 governmental services; and

20 (g) That are consistent with the protection of natural surface
21 water flows and groundwater and surface water recharge and discharge
22 areas.

23 (17) "Rural development" refers to development outside the urban
24 growth area and outside agricultural, forest, and mineral resource
25 lands designated pursuant to RCW 36.70A.170. Rural development can
26 consist of a variety of uses and residential densities, including
27 clustered residential development, at levels that are consistent with
28 the preservation of rural character and the requirements of the rural
29 element. Rural development does not refer to agriculture or forestry
30 activities that may be conducted in rural areas.

31 (18) "Rural governmental services" or "rural services" include
32 those public services and public facilities historically and
33 typically delivered at an intensity usually found in rural areas, and
34 may include domestic water systems, fire and police protection
35 services, transportation and public transit services, and other
36 public utilities associated with rural development and normally not
37 associated with urban areas. Rural services do not include storm or
38 sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

1 (19) "Short line railroad" means those railroad lines designated
2 class II or class III by the United States surface transportation
3 board.

4 (20) "Urban governmental services" or "urban services" include
5 those public services and public facilities at an intensity
6 historically and typically provided in cities, specifically including
7 storm and sanitary sewer systems, domestic water systems, street
8 cleaning services, fire and police protection services, public
9 transit services, and other public utilities associated with urban
10 areas and normally not associated with rural areas.

11 (21) "Urban growth" refers to growth that makes intensive use of
12 land for the location of buildings, structures, and impermeable
13 surfaces to such a degree as to be incompatible with the primary use
14 of land for the production of food, other agricultural products, or
15 fiber, or the extraction of mineral resources, rural uses, rural
16 development, and natural resource lands designated pursuant to RCW
17 36.70A.170. A pattern of more intensive rural development, as
18 provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed
19 to spread over wide areas, urban growth typically requires urban
20 governmental services. "Characterized by urban growth" refers to land
21 having urban growth located on it, or to land located in relationship
22 to an area with urban growth on it as to be appropriate for urban
23 growth.

24 (22) "Urban growth areas" means those areas designated by a
25 county pursuant to RCW 36.70A.110.

26 (23) "Wetland" or "wetlands" means areas that are inundated or
27 saturated by surface water or groundwater at a frequency and duration
28 sufficient to support, and that under normal circumstances do
29 support, a prevalence of vegetation typically adapted for life in
30 saturated soil conditions. Wetlands generally include swamps,
31 marshes, bogs, and similar areas. Wetlands do not include those
32 artificial wetlands intentionally created from nonwetland sites,
33 including, but not limited to, irrigation and drainage ditches,
34 grass-lined swales, canals, detention facilities, wastewater
35 treatment facilities, farm ponds, and landscape amenities, or those
36 wetlands created after July 1, 1990, that were unintentionally
37 created as a result of the construction of a road, street, or
38 highway. Wetlands may include those artificial wetlands intentionally
39 created from nonwetland areas created to mitigate conversion of
40 wetlands.

1 (24) "Affordable housing" means, unless the context clearly
2 indicates otherwise, residential housing whose monthly costs,
3 including utilities other than telephone, do not exceed thirty
4 percent of the monthly income of a household whose income is:

5 (a) For rental housing, sixty percent of the median household
6 income adjusted for household size, for the county where the
7 household is located, as reported by the United States department of
8 housing and urban development; or

9 (b) For owner-occupied housing, eighty percent of the median
10 household income adjusted for household size, for the county where
11 the household is located, as reported by the United States department
12 of housing and urban development.

13 (25) "Extremely low-income household" means a single person,
14 family, or unrelated persons living together whose adjusted income is
15 at or below thirty percent of the median household income adjusted
16 for household size, for the county where the household is located, as
17 reported by the United States department of housing and urban
18 development.

19 (26) "Low-income household" means a single person, family, or
20 unrelated persons living together whose adjusted income is at or
21 below eighty percent of the median household income adjusted for
22 household size, for the county where the household is located, as
23 reported by the United States department of housing and urban
24 development.

25 (27) "Permanent supportive housing" is subsidized, leased housing
26 with no limit on length of stay, paired with on-site or off-site
27 voluntary services designed to support a person living with a
28 disability to be a successful tenant in a housing arrangement,
29 improve the resident's health status, and connect residents of the
30 housing with community-based health care, treatment, and employment
31 services.

32 (28) "Very low-income household" means a single person, family,
33 or unrelated persons living together whose adjusted income is at or
34 below fifty percent of the median household income adjusted for
35 household size, for the county where the household is located, as
36 reported by the United States department of housing and urban
37 development.

38 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A
39 RCW to read as follows:

1 The University of Washington, through the Washington center for
2 real estate research, shall produce a report every two years that
3 compiles housing supply and affordability metrics for each city
4 planning under RCW 36.70A.040 with a population of ten thousand or
5 more. The report must be a compilation of objective criteria relating
6 to development regulations, zoning, income, housing and rental
7 prices, housing affordability programs, and other metrics relevant to
8 assessing housing supply and affordability for all income segments of
9 each city subject to the report required by this section. The
10 Washington center for real estate research shall collaborate with the
11 Washington housing finance commission and the office of financial
12 management to develop the metrics compiled in the report. The report
13 must be submitted, consistent with RCW 43.01.036, to the standing
14 committees of the legislature with jurisdiction over housing issues
15 and this chapter by October 15th of each even-numbered year beginning
16 in 2020.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.21C
18 RCW to read as follows:

19 Amendments to development regulations and other nonproject
20 actions taken by a county or city to implement section 1(1) of this
21 act, with the exception of the action specified in section 1(1)(g) of
22 this act, are not subject to administrative or judicial appeals under
23 this chapter.

24 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.70A
25 RCW to read as follows:

26 In counties and cities planning under RCW 36.70A.040, minimum
27 residential parking requirements mandated by municipal zoning
28 ordinances are subject to the following requirements:

29 (1) For housing units that are affordable to very low-income or
30 extremely low-income individuals and that are located within one-
31 quarter mile of a transit stop that receives transit service at least
32 four times per hour for twelve or more hours per day, minimum
33 residential parking requirements may be no greater than one parking
34 space per bedroom. A city may require a developer to record a
35 covenant that prohibits the rental of a unit subject to this parking
36 restriction for any purpose other than providing for housing for very
37 low-income or extremely low-income individuals. The covenant must
38 address price restrictions and household income limits and policies

1 if the property is converted to a use other than for low-income
2 housing. A city may establish a requirement for the provision of more
3 than one parking space per bedroom if the jurisdiction has determined
4 a particular housing unit to be in an area with a lack of access to
5 street parking capacity, physical space impediments, or other reasons
6 supported by evidence that would make on-street parking infeasible
7 for the unit.

8 (2) For housing units that are specifically for seniors or people
9 with disabilities, that are located within one-quarter mile of a
10 transit stop that receives transit service at least four times per
11 hour for twelve or more hours per day, a city may not impose a
12 minimum residential parking requirement for the residents of such
13 housing units, subject to the exceptions provided in this subsection.
14 A city may establish parking requirements for staff and visitors of
15 such housing units. A city may establish a requirement for the
16 provision of one or more parking space per bedroom if the
17 jurisdiction has determined a particular housing unit to be in an
18 area with a lack of access to street parking capacity, physical space
19 impediments, or other reasons supported by evidence that would make
20 on-street parking infeasible for the unit. A city may require a
21 developer to record a covenant that prohibits the rental of a unit
22 subject to this parking restriction for any purpose other than
23 providing for housing for seniors or people with disabilities.

24 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.21C
25 RCW to read as follows:

26 (1) A project action evaluated under this chapter by a city,
27 town, or county planning under RCW 36.70A.040 is exempt from appeals
28 under this chapter on the basis of the evaluation of or impacts to
29 transportation elements of the environment, so long as the project
30 does not present significant adverse impacts to the state-owned
31 transportation system as determined by the department of
32 transportation and the project is:

33 (a) (i) Consistent with a locally adopted transportation plan; or
34 (ii) Consistent with the transportation element of a
35 comprehensive plan; and

36 (b) (i) A project for which traffic or parking impact fees are
37 imposed pursuant to RCW 82.02.050 through 82.02.090; or

1 (ii) A project for which traffic or parking impacts are expressly
2 mitigated by an ordinance, or ordinances, of general application
3 adopted by the city, town, or county.

4 (2) For purposes of this section, "impacts to transportation
5 elements of the environment" include impacts to transportation
6 systems; vehicular traffic; waterborne, rail, and air traffic;
7 parking; movement or circulation of people or goods; and traffic
8 hazards.

9 **Sec. 7.** RCW 43.21C.420 and 2010 c 153 s 2 are each amended to
10 read as follows:

11 (1) Cities with a population greater than five thousand, in
12 accordance with their existing comprehensive planning and development
13 regulation authority under chapter 36.70A RCW, and in accordance with
14 this section, may adopt optional elements of their comprehensive
15 plans and optional development regulations that apply within
16 specified subareas of the cities, that are either:

17 (a) Areas designated as mixed-use or urban centers in a land use
18 or transportation plan adopted by a regional transportation planning
19 organization; or

20 (b) Areas within one-half mile of a major transit stop that are
21 zoned to have an average minimum density of fifteen dwelling units or
22 more per gross acre.

23 (2) Cities located on the east side of the Cascade mountains and
24 located in a county with a population of two hundred thirty thousand
25 or less, in accordance with their existing comprehensive planning and
26 development regulation authority under chapter 36.70A RCW, and in
27 accordance with this section, may adopt optional elements of their
28 comprehensive plans and optional development regulations that apply
29 within the mixed-use or urban centers. The optional elements of their
30 comprehensive plans and optional development regulations must enhance
31 pedestrian, bicycle, transit, or other nonvehicular transportation
32 methods.

33 (3) A major transit stop is defined as:

34 (a) A stop on a high capacity transportation service funded or
35 expanded under the provisions of chapter 81.104 RCW;

36 (b) Commuter rail stops;

37 (c) Stops on rail or fixed guideway systems, including
38 transitways;

1 (d) Stops on bus rapid transit routes or routes that run on high
2 occupancy vehicle lanes; or

3 (e) Stops for a bus or other transit mode providing fixed route
4 service at intervals of at least thirty minutes during the peak hours
5 of operation.

6 (4)(a) A city that elects to adopt such an optional comprehensive
7 plan element and optional development regulations shall prepare a
8 nonproject environmental impact statement, pursuant to RCW
9 43.21C.030, assessing and disclosing the probable significant adverse
10 environmental impacts of the optional comprehensive plan element and
11 development regulations and of future development that is consistent
12 with the plan and regulations.

13 (b) At least one community meeting must be held on the proposed
14 subarea plan before the scoping notice for such a nonproject
15 environmental impact statement is issued. Notice of scoping for such
16 a nonproject environmental impact statement and notice of the
17 community meeting required by this section must be mailed to all
18 property owners of record within the subarea to be studied, to all
19 property owners within one hundred fifty feet of the boundaries of
20 such a subarea, to all affected federally recognized tribal
21 governments whose ceded area is within one-half mile of the
22 boundaries of the subarea, and to agencies with jurisdiction over the
23 future development anticipated within the subarea.

24 ~~(c) ((In cities with over five hundred thousand residents, notice~~
25 ~~of scoping for such a nonproject environmental impact statement and~~
26 ~~notice of the community meeting required by this section must be~~
27 ~~mailed to all small businesses as defined in RCW 19.85.020, and to~~
28 ~~all community preservation and development authorities established~~
29 ~~under chapter 43.167 RCW, located within the subarea to be studied or~~
30 ~~within one hundred fifty feet of the boundaries of such subarea. The~~
31 ~~process for community involvement must have the goal of fair~~
32 ~~treatment and meaningful involvement of all people with respect to~~
33 ~~the development and implementation of the subarea planning process.~~

34 ~~(d))~~ The notice of the community meeting must include general
35 illustrations and descriptions of buildings generally representative
36 of the maximum building envelope that will be allowed under the
37 proposed plan and indicate that future appeals of proposed
38 developments that are consistent with the plan will be limited.
39 Notice of the community meeting must include signs located on major
40 travel routes in the subarea. If the building envelope increases

1 during the process, another notice complying with the requirements of
2 this section must be issued before the next public involvement
3 opportunity.

4 ~~((f))~~ (d) Any person that has standing to appeal the adoption
5 of this subarea plan or the implementing regulations under RCW
6 36.70A.280 has standing to bring an appeal of the nonproject
7 environmental impact statement required by this subsection.

8 ~~((f))~~ ~~Cities with over five hundred thousand residents shall~~
9 ~~prepare a study that accompanies or is appended to the nonproject~~
10 ~~environmental impact statement, but must not be part of that~~
11 ~~statement, that analyzes the extent to which the proposed subarea~~
12 ~~plan may result in the displacement or fragmentation of existing~~
13 ~~businesses, existing residents, including people living with poverty,~~
14 ~~families with children, and intergenerational households, or cultural~~
15 ~~groups within the proposed subarea plan. The city shall also discuss~~
16 ~~the results of the analysis at the community meeting.~~

17 ~~(g))~~ (e) As an incentive for development authorized under this
18 section, a city shall consider establishing a transfer of development
19 rights program in consultation with the county where the city is
20 located, that conserves county-designated agricultural and forestland
21 of long-term commercial significance. If the city decides not to
22 establish a transfer of development rights program, the city must
23 state in the record the reasons for not adopting the program. The
24 city's decision not to establish a transfer of development rights
25 program is not subject to appeal. Nothing in this subsection (4)
26 ~~((g))~~ (e) may be used as a basis to challenge the optional
27 comprehensive plan or subarea plan policies authorized under this
28 section.

29 (5)(a) Until July 1, ~~((2018))~~ 2029, a proposed development that
30 meets the criteria of (b) of this subsection may not be challenged in
31 administrative or judicial appeals for noncompliance with this
32 chapter as long as a complete application for such a development that
33 vests the application or would later lead to vested status under city
34 or state law is submitted to the city within a time frame established
35 by the city, but not to exceed the following time frames:

36 (i) Nineteen years from the date of issuance of the final
37 environmental impact statement, for projects that are consistent with
38 an optional element adopted by a city as of the effective date of
39 this section; or

1 (ii) Ten years from the date of issuance of the final
2 environmental impact statement, for projects that are consistent with
3 an optional element adopted by a city after the effective date of
4 this section.

5 (b) A proposed development may not be challenged, consistent with
6 the timelines established in (a) of this subsection, so long as the
7 development:

8 (i) Is consistent with the optional comprehensive plan or subarea
9 plan policies and development regulations adopted under subsection
10 (1) or (2) of this section;

11 (ii) Sets aside or requires the occupancy of at least ten percent
12 of the dwelling units, or a greater percentage as determined by city
13 development regulations, within the development for low-income
14 households at a sale price or rental amount that is considered
15 affordable by a city's housing programs. This subsection (5)(b)(ii)
16 applies only to projects that are consistent with an optional element
17 adopted by a city pursuant to this section after the effective date
18 of this section; and ((that))

19 (iii) Is environmentally reviewed under subsection (4) of this
20 section ((may not be challenged in administrative or judicial appeals
21 for noncompliance with this chapter as long as a complete application
22 for such a development that vests the application or would later lead
23 to vested status under city or state law is submitted to the city
24 within a time frame established by the city, but not to exceed ten
25 years from the date of issuance of the final environmental impact
26 statement)).

27 ((b)) (c) After July 1, ((2018)) 2029, the immunity from
28 appeals under this chapter of any application that vests or will vest
29 under this subsection or the ability to vest under this subsection is
30 still valid, provided that the final subarea environmental impact
31 statement is issued by July 1, ((2018)) 2029. After July 1, ((2018))
32 2029, a city may continue to collect reimbursement fees under
33 subsection (6) of this section for the proportionate share of a
34 subarea environmental impact statement issued prior to July 1,
35 ((2018)) 2029.

36 (6) It is recognized that a city that prepares a nonproject
37 environmental impact statement under subsection (4) of this section
38 must endure a substantial financial burden. A city may recover or
39 apply for a grant or loan to prospectively cover its reasonable
40 expenses of preparation of a nonproject environmental impact

statement prepared under subsection (4) of this section through access to financial assistance under RCW 36.70A.490 or funding from private sources. In addition, a city is authorized to recover a portion of its reasonable expenses of preparation of such a nonproject environmental impact statement by the assessment of reasonable and proportionate fees upon subsequent development that is consistent with the plan and development regulations adopted under subsection (5) of this section, as long as the development makes use of and benefits ~~((from))~~ from, as described in subsection (5) of this section, ~~((from))~~ the nonproject environmental impact statement prepared by the city. Any assessment fees collected from subsequent development may be used to reimburse funding received from private sources. In order to collect such fees, the city must enact an ordinance that sets forth objective standards for determining how the fees to be imposed upon each development will be proportionate to the impacts of each development and to the benefits accruing to each development from the nonproject environmental impact statement. Any disagreement about the reasonableness or amount of the fees imposed upon a development may not be the basis for delay in issuance of a project permit for that development. The fee assessed by the city may be paid with the written stipulation "paid under protest" and if the city provides for an administrative appeal of its decision on the project for which the fees are imposed, any dispute about the amount of the fees must be resolved in the same administrative appeal process.

(7) If a proposed development is inconsistent with the optional comprehensive plan or subarea plan policies and development regulations adopted under subsection (1) of this section, the city shall require additional environmental review in accordance with this chapter.

Sec. 8. RCW 36.70A.490 and 2012 1st sp.s. c 1 s 309 are each amended to read as follows:

The growth management planning and environmental review fund is hereby established in the state treasury. Moneys may be placed in the fund from the proceeds of bond sales, tax revenues, budget transfers, federal appropriations, gifts, or any other lawful source. Moneys in the fund may be spent only after appropriation. Moneys in the fund shall be used to make grants or loans to local governments for the purposes set forth in RCW 43.21C.240, 43.21C.031, ~~((or))~~ 36.70A.500,

1 section 1 of this act, for costs associated with section 3 of this
2 act, and to cover costs associated with the adoption of optional
3 elements of comprehensive plans consistent with RCW 43.21C.420. Any
4 payment of either principal or interest, or both, derived from loans
5 made from this fund must be deposited into the fund.

6 NEW SECTION. **Sec. 9.** A new section is added to chapter 35.21
7 RCW to read as follows:

8 A city may not prohibit permanent supportive housing in areas
9 where multifamily housing is permitted.

10 NEW SECTION. **Sec. 10.** A new section is added to chapter 35A.21
11 RCW to read as follows:

12 A code city may not prohibit permanent supportive housing in
13 areas where multifamily housing is permitted.

14 **Sec. 11.** RCW 82.02.060 and 2012 c 200 s 1 are each amended to
15 read as follows:

16 The local ordinance by which impact fees are imposed:

17 (1) Shall include a schedule of impact fees which shall be
18 adopted for each type of development activity that is subject to
19 impact fees, specifying the amount of the impact fee to be imposed
20 for each type of system improvement. The schedule shall be based upon
21 a formula or other method of calculating such impact fees. In
22 determining proportionate share, the formula or other method of
23 calculating impact fees shall incorporate, among other things, the
24 following:

25 (a) The cost of public facilities necessitated by new
26 development;

27 (b) An adjustment to the cost of the public facilities for past
28 or future payments made or reasonably anticipated to be made by new
29 development to pay for particular system improvements in the form of
30 user fees, debt service payments, taxes, or other payments earmarked
31 for or proratable to the particular system improvement;

32 (c) The availability of other means of funding public facility
33 improvements;

34 (d) The cost of existing public facilities improvements; and

35 (e) The methods by which public facilities improvements were
36 financed;

1 (2) May provide an exemption for low-income housing, and other
2 development activities with broad public purposes, from these impact
3 fees, provided that the impact fees for such development activity
4 shall be paid from public funds other than impact fee accounts;

5 (3) May provide an exemption from impact fees for low-income
6 housing. Local governments that grant exemptions for low-income
7 housing under this subsection (3) may either: Grant a partial
8 exemption of not more than eighty percent of impact fees, in which
9 case there is no explicit requirement to pay the exempted portion of
10 the fee from public funds other than impact fee accounts; or provide
11 a full waiver, in which case the remaining percentage of the exempted
12 fee must be paid from public funds other than impact fee accounts. An
13 exemption for low-income housing granted under subsection (2) of this
14 section or this subsection (3) must be conditioned upon requiring the
15 developer to record a covenant that, except as provided otherwise by
16 this subsection, prohibits using the property for any purpose other
17 than for low-income housing. At a minimum, the covenant must address
18 price restrictions and household income limits for the low-income
19 housing, and that if the property is converted to a use other than
20 for low-income housing, the property owner must pay the applicable
21 impact fees in effect at the time of conversion. Covenants required
22 by this subsection must be recorded with the applicable county
23 auditor or recording officer. A local government granting an
24 exemption under subsection (2) of this section or this subsection (3)
25 for low-income housing may not collect revenue lost through granting
26 an exemption by increasing impact fees unrelated to the exemption. A
27 school district who receives school impact fees must approve any
28 exemption under subsection (2) of this section or this subsection
29 (3);

30 (4) May not charge a higher per unit fee for multifamily
31 residential construction than for single-family residential
32 construction, unless the impact fee is calculated using a formula
33 that results in variations between multifamily and single family;

34 (5) Shall provide a credit for the value of any dedication of
35 land for, improvement to, or new construction of any system
36 improvements provided by the developer, to facilities that are
37 identified in the capital facilities plan and that are required by
38 the county, city, or town as a condition of approving the development
39 activity;

1 ~~((+5))~~ (6) Shall allow the county, city, or town imposing the
2 impact fees to adjust the standard impact fee at the time the fee is
3 imposed to consider unusual circumstances in specific cases to ensure
4 that impact fees are imposed fairly;

5 ~~((+6))~~ (7) Shall include a provision for calculating the amount
6 of the fee to be imposed on a particular development that permits
7 consideration of studies and data submitted by the developer to
8 adjust the amount of the fee;

9 ~~((+7))~~ (8) Shall establish one or more reasonable service areas
10 within which it shall calculate and impose impact fees for various
11 land use categories per unit of development; ~~((and~~

12 ~~+8))~~ (9) May provide for the imposition of an impact fee for
13 system improvement costs previously incurred by a county, city, or
14 town to the extent that new growth and development will be served by
15 the previously constructed improvements provided such fee shall not
16 be imposed to make up for any system improvement deficiencies; and

17 (10) May not impose impact fees that cumulatively amount to more
18 than fifty thousand dollars, as adjusted annually for inflation using
19 the consumer price index as published by the United States department
20 of labor, bureau of labor statistics, for any single-family
21 residential unit.

22 For purposes of this section, "low-income housing" means housing
23 with a monthly housing expense, that is no greater than thirty
24 percent of eighty percent of the median ~~((family))~~ household income
25 adjusted for ~~((family))~~ household size, for the county where the
26 project is located, as reported by the United States department of
27 housing and urban development.

28 NEW SECTION. Sec. 12. A new section is added to chapter 36.22
29 RCW to read as follows:

30 (1) Except as provided in subsection (2) of this section, a
31 surcharge of two dollars and fifty cents shall be charged by the
32 county auditor for each document recorded, which will be in addition
33 to any other charge or surcharge allowed by law. The auditor shall
34 remit the funds to the state treasurer to be deposited and used as
35 follows:

36 (a) Through June 30, 2024, funds must be deposited into the
37 growth management planning and environmental review fund created in
38 RCW 36.70A.490 to be used first for grants for costs associated with

section 1 of this act and for costs associated with section 3 of this act, and thereafter for any allowable use of the fund.

(b) Beginning July 1, 2024, funds must be deposited into the home security fund account created in RCW 43.185C.060 to be used for maintenance and operation costs of: (i) Permanent supportive housing and (ii) affordable housing for very low-income and extremely low-income households.

(2) The surcharge imposed in this section does not apply to: (a) Assignments or substitutions of previously recorded deeds of trust; (b) documents recording a birth, marriage, divorce, or death; (c) any recorded documents otherwise exempted from a recording fee or additional surcharges under state law; (d) marriage licenses issued by the county auditor; or (e) documents recording a federal, state, county, or city lien or satisfaction of lien.

(3) For purposes of this section, the terms "permanent supportive housing," "affordable housing," "very low-income households," and "extremely low-income households" have the same meaning as provided in RCW 36.70A.030.

NEW SECTION. **Sec. 13.** If specific funding for the purposes of section 1 of this act, referencing section 1 of this act by bill or chapter number and section number, and amounting to not less than one hundred thousand dollars per city subject to section 1 of this act, is not provided by June 30, 2019, in the omnibus appropriations act, section 1 of this act is null and void.

NEW SECTION. **Sec. 14.** Section 12 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effects July 1, 2019."

E2SHB 1923 - S COMM AMD
By Committee on Ways & Means

On page 1, line 2 of the title, after "capacity;" strike the remainder of the title and insert "amending RCW 36.70A.030, 43.21C.420, 36.70A.490, and 82.02.060; adding new sections to chapter 36.70A RCW; adding new sections to chapter 43.21C RCW; adding a new

1 section to chapter 35.21 RCW; adding a new section to chapter 35A.21
2 RCW; adding a new section to chapter 36.22 RCW; creating a new
3 section; providing an effective date; and declaring an emergency."

EFFECT: (1) Requires cities over 40,000 in population to select at least two actions, and cities between 20,000 and 40,000 in population to select at least one action to increase residential building capacity by April 1, 2021.

(2) Limits cities required to take at least two actions from choosing only transit density actions, unless those actions are in different geographic areas.

(3) Adds additional actions a city may choose to increase residential building capacity including the division of land into the maximum number of lots, establishing certain minimum net density requirements, and authorizing certain accessory dwelling units.

(4) Modifies acreage requirements for cities under 40,000 in population that choose to develop density requirements near bus service.

(5) Requires a city that chooses to adopt a housing action plan to develop the plan by April 1, 2021, or otherwise comply with residential building capacity requirements by October 1, 2021.

(6) Clarifies that cities and counties that take actions to increase residential building capacity under the act are exempt from appeals under the State Environmental Policy Act.

(7) Adds a definition of permanent supportive housing and makes several clarifying and technical changes.

(8) Authorizes the \$50,000 cap on impact fees to be adjusted annually for inflation.

(9) Clarifies that a city that complies with the requirements of the act by using actions taken prior to the effective date of the act are not eligible for grant funds.

(10) Imposes a \$2.50 document recording surcharge on each document recorded with county auditors to be deposited into the growth management planning and environmental review fund for five fiscal years to be first for planning grants for costs associated with section 1 of the act, for the Washington center for real estate research reports, and thereafter for any allowable use of the fund.

(11) Beginning July 1, 2024, surcharge funds must be deposited into the Washington housing trust fund for permanent supportive housing.

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